

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

BRUCE SNEATH II,

Plaintiff,

V.

GMAC MORTGAGE, et al.,

Defendants.

Case No. 2:09-CV-01521-KJD-GWF

ORDER

Currently before the Court is Plaintiff's Motion for District Judge to Reconsider Order (#62), filed October 7, 2010. Defendant Capital One Bank filed a Response (#63), to which Plaintiff filed a Reply (68).¹ Plaintiff seeks that the Court reconsider its Order (#60) of September 27, 2010, in which the Court granted Defendants' Motion to Dismiss.

I. Standard of Law

Where a ruling has resulted in a final judgment or order, a motion for reconsideration may be construed by the Court either as a motion to alter or amend judgment pursuant to Federal Rule of Civil Procedure 59(e), or as a motion for relief from judgment pursuant to Federal Rule 60(b).

School Dist. No. IJ Multnomah County v. AC & S, Inc., 5 F.3d 1255, 1262 (9th Cir.1993), cert. denied, 512 U.S. 1236 (1994).

Reconsideration under Fed. R. Civ. P. 59(e) is appropriate where: (1) the district court is presented with newly discovered evidence or committed clear error; (2) the initial decision was manifestly unjust; or (3) there is an intervening change in controlling law. See School Dist. No. 1J, Multnomah County, Or. v. AcandS, Inc., 5 F.3d 1255, 1263 (9th Cir. 1993). The Ninth Circuit has

¹Plaintiff's Reply was incorrectly filed as a "Response". Said document is referred to herein as Plaintiff's Reply (#68).

1 stated that Motions made under Rule 59(e) “should not be granted absent highly unusual
 2 circumstances.” 389 Orange St. Partners v. Arnold, 179 F.3d 656, 665 (9th Cir. 1999). A motion for
 3 reconsideration is properly denied when the movant fails to establish any reason justifying relief.
 4 Backlund v. Barnhart, 778 F.2d 1386, 1388 (9th Cir.1985) (holding that a district court properly
 5 denied a motion for reconsideration in which the plaintiff presented no arguments that were not
 6 already raised in his original motion)). Motions for reconsideration are not “the proper vehicles for
 7 rehashing old arguments,” and are not “intended to give an unhappy litigant one additional chance to
 8 sway the judge.” See Momot v. Mastro Resolution Trust Corp. v. Holmes, 846 F. Supp. 1310, 1316
 9 (S.D.Tex.1994) (footnotes omitted); Durkin v. Taylor, 444 F.Supp. 879, 889 (E.D. Va.1977).²

10 Here, the Court finds that Plaintiff has failed to meet his burden under Rule 59. Plaintiff has
 11 failed to identify any relevant or newly discovered evidence, or that the Court’s initial ruling was
 12 manifestly unjust. Though he raises numerous arguments in attempt to persuade the Court that its
 13 previous decision was erroneous, Plaintiff’s arguments are nothing more than a recirculation of the
 14 arguments raised in his Complaint. Additionally, Plaintiff has failed to show that there has been an
 15 intervening change in controlling law.

16 Here, Plaintiff avers that the Court “has the inherent authority, sua sponte, to make inquiry
 17 over just about anything in its quest for truth and justice” and thus could “vitiate” the “judgment or
 18 ruling . . . of the bankruptcy court”. (#62 at 2.) As it previously found by this Court however,
 19 Plaintiff lacks standing to bring his underlying claims because he filed claims for alleged injuries that
 20 pre-date his bankruptcy petition. Pursuant to United States v. Whiting Pools, Inc., 462 U.S.
 21 198, 265(1983), Plaintiff’s claims belong to the trustee in bankruptcy. Accordingly, as Plaintiff’s
 22 bankruptcy was discharged on August 10, 2009, he must petition the bankruptcy court to reopen
 23 proceedings in order that it may decide whether the trustee should enforce Plaintiff’s damages claims

26 ²Plaintiff’s Motion would likewise fail if deemed a Motion for Relief from Judgment under Rule 60.

1 for the benefit of creditors or whether to abandon said claims. Stein v. United Artists, 691 F.2d 885
2 (9th Cir. 1982).

3 Accordingly, **IT IS HEREBY ORDERED** that Plaintiff's Motion for District Judge to
4 Reconsider Order (#62), is **DENIED**.

5 DATED this 24th day of January, 2011.
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10 Kent J. Dawson
11 United States District Judge
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